**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**CHAMBER SUMMONS NO.367 OF 2007**

**IN**

**SUIT NO.1268 OF 1979**

Jayesh Devi Baan and Ors.... Plaintiff

Versus

Natwarlal Pateland Ors....Defendants

And

Smt.Sulochanaben N.Patel and Ors..Respondents

Ms R.C.Nichani with Ms Neelam J.Asrane i/b Dadhich and Co. for Plaintiff in Suit NO.5259/80

Zubin Kamdin i/b FZB and Asociate for Respondent nos.1 to 3

Mr.S.K.Dubey for Defendant no.18

**CORAM : A.M. KHANWILKAR,J.**

**DATED : 05/04/2007**

P.C. :-

1. Heard Counsel for the parties. Counsel for the Respondent fairly states that in so far as Respondent nos.2 and 3 are concerned, he has no objection for allowing Chamber Summons. Objection is only with regard to impleading Respondent no.1 as legal representative of deceased defendant no.1. According to the said Respondent the deceased has left behind

the Will in terms whereof wife -Respondent no.1 will not get any share in the estate of the deceased. However as it is common ground that this aspect can be dealt at the time of hearing. In the interest of justice, therefore Chamber Summons deserves to be allowed even against Respondent no.1 being the heir and legal representative of deceased defendant no.1. Accordingly Chamber Summons is made absolute in terms of prayer clauses (a) and (b).

2. Amendment to be carried out within 4 weeks from today.

3. This order will not preclude the parties to raise contentions available to them on the merits of the case which will have to be decided on its own merits.

4. In view of the pleadings now filed in the present proceedings as the plaintiff has become aware about the existence of one more heir of deceased defendant no.1 viz. Nandini Patel, daughter of deceased it will open to the plaintiff to take out appropriate application as may be advised which will decide on its own merits.

(A.M. KHANWILKAR,J.)